

EXHIBIT 4

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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3
4 BARON WALKER, individually and
on behalf of a class of all
others similarly situated,
-and-

5 MILAN HEGGS, individually and on
behalf of a class of all others Case No.:
similarly situated, 17-cv-03234
-and- (RJD) (CLP)

6 DISABILITY RIGHTS NEW YORK,
Plaintiffs,

7
8 vs.
9

10 THE CITY OF NEW YORK; NEW YORK
11 CITY POLICE (NYPD) COMMISSIONER
JAMES P. O'NEILL; NYPD OFFICER
12 (P.O.) ROBERT BERNHARDT, P.O.
MICHAEL G. PARKS; P.O. EDWARD
13 NAJARRO; P.O. CARLOS COLON; P.O.
ROBERT SCHWAB; Detective
14 JENNYANN NELSON; Sergeant
RAYMOND GONZALEZ; P.O. JASON
15 WHYTE; Detective BRENDA VASQUEZ;
Sergeant DAN OSPINA; P.O. EDWARD
16 VAVRUICK; Sergeant JERRY
SUKNANDAN; JOHN DOES 1-6,
17 Defendants.

18
19 May 22, 2019
20 10:27 a.m.

21 Deposition of DEPUTY INSPECTOR ROBERT M. HALEY,
taken by Plaintiff, held at the offices of Beldock,
Levine & Hoffman, LLP, 99 Park Avenue, New York, NY
22 100016, pursuant to order, before Elizabeth F. Tobin,
a Registered Professional Reporter and Notary Public
23 of the State of New York.
24 JOB NO. 3398550
25

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2 prisoner.

3 Q. I'm sorry. You were saying you create a
4 prisoner movement slip?

5 A. Yes. That tracks the prisoner from the
6 time of arrival at the court section through
7 arraignments.

8 Q. Is there a notation made somewhere in the
9 prisoner movement slip that the individual has
10 arrived with a wheelchair?

12 Q. Is that in all cases?

13 MR. LE: Objection.

14 A. It should be in all cases.

15 Q. Is that by policy officers are required
16 to note in the prisoner movement slip that an
17 individual has entered custody with a wheelchair?

19 Q. What policy states that?

20 A. That is in the patrol guide. It is in
21 208-03 arrests general processing.

Q. I'm sorry, you said --

23 A. 208-03.

24 Q. Are officers required to note only
25 wheelchairs or any assistive mobility device?

1 R. Haley

2 A. They should note any assistive mobility
3 device.

4 Q. And you said that this is another point
5 at which a record is made at Central Booking that an
6 individual has entered custody with an assistive
7 mobility device; is that correct?

8 MR. LE: Objection.

9 A. That is correct.

10 Q. Is a notation made concerning an
11 assistive mobility device at any time prior to
12 arrival in Central Booking in the prisoner movement
13 slip?

14 A. There are two prisoner movement slips.
15 There's one generated at the command. That covers
16 time of transportation from the command to the court
17 section. And there would also be a medical
18 treatment of prisoner form that should be prepared
19 at the command also noting that.

20 Q. You said that there are two prisoner
21 movement slips or were you referring to the prisoner
22 movement slip and the medical treatment of prisoner
23 form?

24 A. There are two prisoner movement slips and
25 one medical treatment of prisoner form.

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2 Q. And so the first prisoner movement slip
3 is made at the command and the second prisoner
4 movement slip is created at Central Booking?

5 A. Correct.

6 Q. The notation of an assistive mobility
7 device should occur in both prisoner movement slips
8 at the command and at Central Booking?

10 Q. So you've identified two manners in which
11 at Central Booking the Criminal Justice Bureau has
12 identified individuals entering custody with
13 assistive mobility devices; first, by means of a
14 call from the command and, second, by means of a
15 notation in a prisoner movement slip; is that
16 accurate?

17 A. Yes.

18 Q. Are there any other means by which the
19 Central Booking or the Criminal Justice Bureau
20 records or assesses whether an individual has
21 entered custody with an assistive mobility device?

22 A. They would also be accompanied with a
23 medical treatment of prisoner form and it would be
24 documented on there as well. Those would be the
25 only two places for prisoner -- for an arrestee when

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2 record it. That's how I have that numbered.

3 Each court section, likewise, would
4 maintain their own numbers. For the Brooklyn
5 section they would know how many persons using
6 wheelchairs came to Brooklyn. Bronx, would have how
7 many are in the Bronx. But each court section
8 wouldn't ordinarily know the other court sections.

9 Does that make sense.

10 Q. Where is that information recorded end?

11 A. At the Criminal Justice Bureau we
12 maintain it in a spreadsheet.

13 Q. When you say in a spreadsheet, do you
14 mean an Excel spreadsheet?

15 A. Excel spreadsheet.

16 Q. In each borough is it similarly
17 maintained, that list or that recording of an
18 individual entering custody with an assistive
19 mobility device in an Excel spreadsheet?

20 MR. LE: Objection.

21 A. I do not know 100 hundred percent. It
22 may be one or the other.

23 Q. So it may be an Excel spreadsheet or it
24 may be a written logbook?

25 A. Yes.

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2 Q. When you say logbook, could it be an
3 electronically stored log or are you referring to a
4 written paper notation?

5 A. I'm referring to a written paper
6 notation.

7 Q. And when you said earlier that you're
8 also tracking any assistive mobility device, is that
9 similarly recorded in either the Excel spreadsheet
10 or the written log at each of those borough court
11 sections?

12 A. Yes.

13 Q. When I say assistive mobility device, do
14 you understand what I am describing?

15 A. Yes.

16 Q. That may include items such as a walker
17 or a crutch or a scooter, for instance, but not
18 exclusively those items, inclusive to any type of
19 assistive technology that may assist a person with
20 mobility impairments in ambulating?

21 MR. LE: Objection.

22 A. I understand.

23 Q. You said that you are recording,
24 individually, your borough court section records in
25 an Excel spreadsheet; is that correct?

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2 A. The borough office, the Criminal Justice
3 Bureau office records it on an Excel spreadsheet.

4 Q. Is that the aggregated information across
5 all of the boroughs or something else?

6 A. It's the aggregated information.

7 Q. Across all the boroughs?

8 A. Across all the boroughs, yes.

9 Q. Would you be able to search that Excel
10 spreadsheet of aggregated statistics across all
11 boroughs for the number of individuals who entered
12 Central Bookings across all boroughs with
13 wheelchairs?

15 Q. Would you be able to search that Excel
16 spreadsheet for the number of individuals who
17 entered Central Booking custody across all boroughs
18 with assistive mobility devices?

19 MR. LE: Objection.

20 A. Yes.

Q. Are you familiar with the PET system?

23 Q. Has the Criminal Justice Bureau at any
24 time searched the PET system for assistive mobility
25 devices?

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2 mobility device came to us without that device, I
3 would be notified of that.

4 MS. CASSELL-STIGA: Sorry. Maybe you
5 should read back that answer.

6 Q. Are you saying that if they came to your
7 division with an assistive mobility device you would
8 be aware?

9 A. Yes. I would be aware. But I am also
10 saying I am pretty sure that I would get a
11 notification if we had something unusual in that
12 arrest process, like a person who had an assistive
13 mobility device but needed that and then didn't have
14 that when they came down to the Criminal Justice
15 Bureau.

16 Q. Are you saying that you believe that you
17 would be getting notifications for individuals who
18 had an assistive mobility device removed and
19 inventoried and are arriving or being transported
20 not with an assistive mobility device?

21 MR. LE: Objection.

22 A. I believe I would be.

Q. In all cases?

24 A. I would hope in all cases.

Q. Where is the requirement for an officer

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2 to inform you of an individual that might require
3 assistive devices but does not have an assistive
4 device when entering Central Booking custody?

5 MR. LE: Objection.

6 A. Every 24 hours the Criminal Justice
7 Bureau is informed of unusual occurrences in the
8 court sections via an e-mail and it will list
9 various things that are going on that are of
10 interest that we should know about. I believe that
11 if that were the type of situation or occurrence
12 where a prisoner needed an assistive mobility device
13 and didn't have it, that should be in that
14 notification system.

15 Q. Correct me if I'm not gathering this
16 correctly, but you're saying that there is a system
17 to notify you of unusual occurrences and that you
18 believe that the category of individuals I'm
19 describing of individuals who no longer have their
20 assistive mobility device and no longer are
21 accompanied by their assistive mobility device would
22 be reported to you by means of the unusual
23 occurrence?

24 MR. LE: Objection.

25 A. Police department has a separate

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2 procedure called unusual occurrence. That is not
3 the procedure you're referring to in this instance.
4 I'm talking about an internal type of system where,
5 you know, we have things that are out of the
6 ordinary every day that occur in the five court
7 sections. The commanding officers want the borough
8 office to know about that just in case anything ever
9 happens or comes to be with that, so we should be
10 notified if something out of the ordinary were to
11 occur.

12 Q. Is that a formal procedure that an
13 individual who is requesting or has need for an
14 assistive mobility device and does not have one in
15 their possession would be reported by means of the
16 unusual occurrence or to your office as you
17 described?

18 MR. LE: Objection.

19 A. It's not formal in that it's written down
20 or documented anywhere.

21 Q. You believe there is an informal
22 understanding that officers who observe or learn of
23 an individual that requires an assistive mobility
24 device and does not have one would report that to
25 your office?

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2 MR. LE: Objection.

3 A. Yes.

4 Q. Is it possible that there are individuals
5 that are not captured in your Excel spreadsheet's
6 summary statistics concerning individuals with
7 assistive mobility devices entering custody at
8 Central Booking --

9 MR. LE: Objection.

10 MS. CASSELL-STIGA: Withdrawn.

11 Q. Is it possible that there are individuals
12 who require assistive mobility devices to ambulate
13 that enter custody at Central Booking and are not
14 recorded in your summary Excel spreadsheet that you
15 described?

16 A. Anything is possible.

17 Q. Are you aware of situations in which
18 individuals have entered custody at precinct and
19 have had their assistive mobility devices
20 inventoried at that time?

21 MR. LE: Objection.

22 A. I primarily concern myself with the
23 Criminal Justice Bureau and our court sections, so
24 I'm not a hundred percent -- I'm not aware of any
25 instances where individuals with assistive mobility

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2 devices had them removed and vouchered in the
3 precincts.

4 Q. And you say that's because that's not
5 within your purview, the occurrences at precincts;
6 is that correct?

7 A. Correct.

8 Q. Earlier you described the Criminal
9 Justice Bureau as not supervising the PET system or
10 having kind of custody of that information
11 management system; is that correct?

12 MR. LE: Objection.

13 A. Yes.

14 Q. What information management systems does
15 the Criminal Justice Bureau supervise or have
16 custody of?

17 A. Criminal Justice Bureau utilizes the
18 online prisoner arraignment system.

19 Q. You said online prisoner arraignment
20 system?

21 A. Yes, OLPA or --

22 Q. Any other information management systems
23 that you utilize or implement?

24 MR. LE: Objection.

25 A. That is the one.

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2 also obtained during arrest processing; is that
3 correct?

A. **Correct.**

5 Q. Is that also true from the BADS system,
6 the ARC system and the other systems that we've
7 identified earlier?

8 A. That's correct.

9 Q. You're only prepared to give testimony
10 about that information contained in the online
11 prisoner arraignment system?

A. That is correct.

13 Q. Where in the online prisoner arraignment
14 system is an officer required to record the fact of
15 an individual having a mobility disability or
16 impairment?

17 MR. LE: Objection.

18 A. Until the online prisoner arraignment
19 system we would record -- the Criminal Justice
20 Bureau, the court sections, would record that fact
21 in a notes section.

22 Q. Is that by policy?

23 A. Yes.

Q. What policy requires officers to record
the existence of a mobility disability or impairment

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2 of an arrestee in the notes section of OLPA or
3 online prisoner arraignment system?

4 A. So that policy is Criminal Justice Bureau
5 policy. It's not stated -- it's not written in the
6 patrol guide. It's policy where if we have an
7 arrestee, a prisoner who has a warrant and we have
8 to record that information, that would go in that
9 section. If they had an ICE detainer, that would go
10 in that section. If an arrest was being held up
11 because of a detective investigation, that would be
12 noted in that secretaries or if there's some type of
13 hospitalization of the prisoner or medical condition
14 of the prisoner would all be noted in that notes
15 section.

16 Q. That's not required in any written or
17 formal policy; is that correct?

18 MR. LE: Objection.

A. That is correct.

20 Q. But it is your informal understanding of
21 the practice of the NYPD; is that correct?

22 MR. LE: Objection.

23 A. That is the practice of the Criminal
24 Justice Bureau when it relates to prisoners. We
25 would need to know, want to know, like to know,

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2 Q. In all cases would a person who is an
3 arrestee with a mobility disability or impairment be
4 considered a special category prisoner?

5 MR. LE: Objection.

6 A. Yes.

7 Q. You just described yourself, your office,
8 making this notation in the online prisoner
9 arraignment system. Would such notation in the
10 notes section of OLPA, online prisoner arraignment
11 system, occur at the precinct by someone outside of
12 your office, by an officer at the precinct --

13 MR. LE: Objection.

Q. -- prior to notification to your office?

15 MR. LE: Objection.

16 A. Okay. So based on my knowledge of arrest
17 processing, it would not be entered into anything
18 other than the command log that records the
19 prisoner's presence in the command which is pedigree
20 information as well as physical, mental condition of
21 the prisoner.

22 Q. So at the precinct when an individual is
23 arrested and brought to a precinct, a mobility
24 impairment or disability would be recorded in the
25 command log but not elsewhere; is that correct?

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2 A. I cannot recall at this time if there is.

3 Q. If there is such a field, would an
4 officer be required to note the existence of a
5 mobility impairment or disability in a physical
6 condition field?

7 MR. LE: Objection.

8 A. My knowledge of the patrol guide and the
9 procedures of the arrest and arrest report
10 preparation, there's no indication anywhere for an
11 officer to do that.

12 Q. So the patrol guide does not require
13 officers to make a notation of a -- withdrawn.

14 The patrol guide does not require
15 officers to make a notation of a mobility impairment
16 or disability in the Omniform arrest report?

17 MR. LE: Is that a question?

Q. Is that correct?

A. Yeah, that's correct.

20 Q. At what time is the prearraignment
21 screening report made?

22 MR. LE: Objection.

23 A. Can you clarify which prearraignment
24 screening report you're referring to and by whom?

Q. Are there multiple prearraignment

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2 who appear ill, injured or emotionally disturbed
3 obtain appropriate medical psychiatric treatment.
4 And it says, CPG 210-04 prisoners requiring medical,
5 psychiatric treatment.

6 So in those cases that prisoner requiring
7 medical attention form would be prepared.

8 Q. I understand that the command log is
9 completed by the desk officer. Is there anything in
10 this patrol guide procedure 208-03 arrest processing
11 that requires the arresting officer to make a
12 notation of a mobility impairment or a disability in
13 the medical treatment of prisoner form or prisoner
14 movement slip?

15 A. That is not in this section of the patrol
16 guide.

17 Q. You said that the medical treatment of
18 prisoner form is directed to be prepared if an
19 individual requires medical or psychiatric treatment
20 or has previously -- but there's no requirement in
21 this document that the medical treatment of prisoner
22 form be prepared if an individual has a mobility
23 disability or impairment, correct?

24 A. That appears in 210-17, special category
25 of prisoners, where it directs that it be prepared

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2 for a special category of prisoner and the mobility
3 impaired prisoner would be determined or classified
4 as a special category prisoner.

5 Q. That section of the patrol guide requires
6 what to be prepared?

7 A. Medical treatment of prisoner form.

8 Q. There's no section of the patrol guide
9 that requires that a prisoner movement slip be
10 prepared or note that there is a mobility impairment
11 or disability; is that correct?

12 MR. LE: Objection.

13 A. I answered that earlier. That is under
14 210 section with prisoners with the court section
15 personnel, also special category for us to enter
16 that.

17 Q. So only at the court section. But at the
18 precinct an officer is not required to make a
19 notation of a mobility disability or impairment in
20 the prisoner movement slip by orders of the patrol
21 guide; is that correct?

22 A. That is correct.

23 Q. At the bottom of the page marked 1352
24 there is a list of related procedures. Do you see
25 the special category prisoner patrol guide section

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2 by the time court goes down, the AO's command is
3 contacted to transport the prisoner back to the
4 command until court reopens.

5 Q. Is that procedure in place because the
6 Manhattan court section does not have accessible
7 cells to house overnight individuals with mobility
8 disabilities and impairments?

9 MR. LE: Objection.

10 A. With the exception of the Brooklyn court
11 section and the Staten Island court section,
12 prisoners in these other court sections are guarded
13 by the Department of Corrections. So to the extent
14 that we don't have cell space, the Department of
15 Corrections would have to accept that prisoner, that
16 prearraignment prisoner, and hold that prisoner for
17 arraignment.

18 Q. I'm asking about the accessibility
19 characteristics of the holding cell. Is this bullet
20 point applicable in Manhattan court section in
21 existence because there are no ADA accessibility
22 cells for housing or holding the prearraignment
23 arrestee who has a mobility disability or impairment
24 at Manhattan court overnight?

25 A. So, there are -- well --

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2 MR. LE: Can you read back the question,
3 please.

4 (Record read.)

5 A. I believe the cells in the Manhattan
6 court section, the special cells, the bathrooms in
7 those cells are ADA compliant as per this document
8 and that would make the cell also ADA compliant.

9 Q. So why is the procedure to return a
10 prearraignment prisoner with a wheelchair to the
11 precinct command if they're going to be housed
12 overnight?

13 A. The Manhattan court section returns all
14 prisoners who are designated specials to all
15 precincts at night when court goes down.

16 Q. Why is that?

17 A. Just a matter of policy.

18 Q. Is that because there is no wheelchair
19 accessible restrooms in cells for prearraignment
20 arrestees with mobility disabilities?

21 A. There are ADA compliant cells.

22 Q. Do those ADA compliant cells utilized for
23 prearraignment prisoners in Manhattan court section
24 have ADA compliant toilets?

25 A. Yes.

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2 wheelchair accessible vehicle; is that correct?

3 A. I'm sorry. Could you read that question
4 back?

5 (Record read.)

6 A. That is correct.

7 Q. Is there anyplace with -- withdrawn.

8 Is there any written policy that states
9 that where it says if required means that only if
10 the borough court section -- withdrawn.

11 Is there any written policy that provides
12 further guidance that where here it says if required
13 it actually means in all situations special
14 transportation is required?

15 MR. LE: Objection.

16 A. I'm sorry.

17 Q. Withdrawn. Here it says special
18 transportation will be provided if required. Is
19 there any policy, written formal policy, that states
20 that special transportation must be provided in all
21 situations for prisoners in a wheelchair?

22 A. No.

23 Q. Is there any policy that states special
24 transportation must be provided to all individuals
25 with mobility disabilities or impairments?

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2 MR. FLIEDNER: Can you mark that 24.

3 (Plaintiffs' Exhibit 24, 3/1/18

4 operations order number 12, marked for
5 identification.)

6 Q. Sir, do you recognize this document?

7 A. Yes.

8 Q. Can you please describe it for the
9 record?

10 A. This is an operations order number 12
11 dated 3/1/18. And the subject is pilot program
12 utilization of department vehicles equipped with
13 Americans with Disabilities Act compliant list when
14 transporting arrestees with mobility disabilities
15 within patrol borough Brooklyn North and patrol
16 borough Brooklyn South.

17 Q. So, again, to clarify, an operations
18 order goes out to who?

19 A. This goes out to all commands.

20 Q. To a commanding officer? Is there a
21 standard protocol for who it goes to?

22 A. This goes out over the intranet, the
23 department intranet.

24 Q. Every police officer would have access to
25 it; is that correct?

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2 A. Yes, that's correct.

Q. What date was this, in fact, issued?

4 A. 3/1/18.

5 Q. And it would then be in effect on that
6 date or was there a separate provision in this
7 matter for implementation?

8 A. This says effective immediately, so it
9 would be that same day.

10 Q. You said it would be available on the
11 intranet. Was it brought to the attention of
12 members of service by any other means other than
13 their ability to access this on the intranet as of
14 that date?

15 MR. LEWIS: Can you read that back?

16 (Record read.)

A. I don't know.

18 Q. So it may have been or -- that may have
19 been the only means by which the information was
20 provided to them?

21 A. The beginning of this procedure, number
22 one, the actor is the patrol borough commander. So
23 it's directing the patrol borough commanders of
24 Brooklyn North and Brooklyn South to make sure that
25 training is provided to the training bureau.

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2 A. I'm clear about that. Did you ask the
3 question already?

4 MS. CASSELL-STIGA: Read it back for him,
5 would you?

6 (Record read.)

7 A. That I do not know.

8 Q. Any guidelines provided, if you know, for
9 how to identify somebody with a mobility disability
10 who was in need of this form of transport?

11 A. I would think it is fairly apparent to an
12 arresting officer that their prisoner needs some
13 type of mobility assistance.

14 Q. Well, that's not the question. Let me
15 ask you this question again: Do you know if there
16 were guidelines that were set forth about how to
17 best determine whether this is somebody that needs
18 this -- that requires this form of assistance?

19 MR. LE: Of assistance?

20 MR. FLIEDNER: Yeah.

21 A. I do not know.

22 Q. Then there's obviously -- there are
23 references in the operations order to -- referring
24 back to operations order 12 which has to do with the
25 complainants and victims who are people with

1 R. Haley

2 disabilities, do you have any way to know was
3 guidance provided for how that -- compliance with
4 operation 12 should fit into this new operations
5 order?

6 MR. LE: Objection.

7 A. No, I don't.

8 Q. Do you know who would be the person that
9 would be able to answer that question?

10 MR. LE: Objection.

11 A. It would be deputy commissioner of
12 support services.

13 Q. Do you have the name of that individual
14 at this time?

15 A. No, I do not.

16 Q. Lastly, would you have been in a position
17 to determine and document compliance with the
18 directive since March 1st of 2018 or does it fall to
19 the Brooklyn North and Brooklyn South to do that
20 because of the designation?

21 MR. LE: Objection.

22 A. It falls to Brooklyn North and Brooklyn
23 South because there will be prisoners who are just
24 transported to a command and receive a desk
25 appearance ticket and never make their way to

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2 Central Booking.

3 Q. You don't have any information about
4 specific auditing compliance or anything like that
5 since it was issued back on March 1st, 2018?

6 A. That's correct.

7 MR. LE: Objection.

8 MR. FLIEDNER: Mark this 25.

9 (Plaintiffs' Exhibit 25, 6/8/18
10 operations order 35, marked for
11 identification.)

12 Q. Take a moment to look at that and tell me
13 if you recognize that document.

14 A. I recognize this.

15 Q. With a do you recognize this to be?

16 A. This is operations order number 35 dated
17 6/8/18, operational guidelines for Americans with
18 Disabilities Act compliance.

19 Q. And what is the purpose of this specific
20 operations order?

21 A. It's to inform members of the New York
22 City Police Department how to interact with persons
23 with disabilities and -- I'm sorry. It gives a
24 bunch of definitions here, facilitate access to
25 Department of Services' programs and activities for